

STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE: Pamela J. Miller)
Map 104-01-0, Parcel 283.00) Davidson County
Residential Property)
Tax Years 2006 (Pro-Rate June 1, 2006))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$77,000	\$782,000	\$859,200 ¹	\$214,800

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on October 6th, 2006.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on May 17, 2007, at the Davidson County Property Assessor's Office. Present at the hearing were Pamela J. Miller, the taxpayer, Mr. Patrick J. McGuigan, Ms. Miller's appraiser, and Jason Poling, Residential Appraiser, also from the Division of Assessments for the Metro. Property Assessor's Office.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence, with an approximately finished area of 3923 square feet, located on 0.18 acres at 121 39th Avenue North in Nashville, Tennessee².

Ms. Miller believes that her property is worth \$525,000 (the building cost were \$330,000). Mr. McGuigan and the taxpayers' argument is that her property is so different from the neighbors she should not be penalized for the over adequacy and esthetics. The values should still be reflective of the lower values in the area despite the over adequacy.

Mr. Poling contends that the property should be value at \$658,300 using paired data analysis (County's collective exhibit #2) in the sale comparison approach to the determination of value. Mr. McGuigan's analysis used all three (3) approaches to value and arrived at a value of \$515,000 as of September 28, 2006.

The basis of valuation as stated in T.C.A. § 67-5-601(a) "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for

¹ A field review in September of 2006 will reduce the 2007 value to \$688,300.

² The subject property is a recent construction and is considered to be in very good to new condition. The subject property is also the largest structure in the immediate neighborhood.

purposes of **sale** between a willing seller and a willing buyer without consideration of speculative values” (Emphasis supplied). The germane issues are the values of the subject property as of January 1, 2006.

Since the taxpayer is seeking to change the status quo she has the burden of proof. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board*, 620 S.W. 2d 515 (Tenn. App. 1981).

The taxpayers must meet their burden in order to receive their requested relief, a reduction in the appraised value of the subject property. In order to accomplish that burden the taxpayer must show by the “preponderance of the evidence” that values set by the Davidson County Assessor’s Office does not correctly reflect the fair market value of the subject property as of the date of assessment. A “preponderance of the evidence” means the greater weight of the evidence or that, according to the evidence, the conclusion sought by the party with the burden of proof is the more probable conclusion. *Uniform Rules of Procedure for Hearing Contested Cases*. Rule 1360-4-1-.02(7)

After review of the taxpayer’s Uniform Residential Appraisal Report, testimony of the witnesses and analysis of the case as a whole, the administrative judge is of the opinion that the taxpayer has met her burden in this case.

ORDER

It is therefore ORDERED that the following value and assessment be adopted as of June 1, 2006 :

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$77,000	\$438,000	\$515,000	\$128,750

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

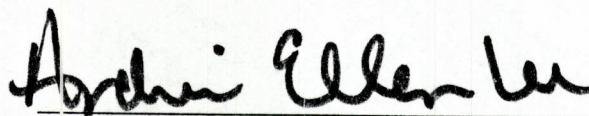
1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal “**must be filed within thirty (30) days from the date the initial decision is sent.**” Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal “**identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order**”; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 6th day of June, 2007.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Pamela J. Miller
Jo Ann North, Property Assessor